

Statement of U.S. Senator Cindy Hyde-Smith of Mississippi
Before the Senate Committee on the Judiciary
Hearing to Receive Testimony on “The Equal Rights Amendment”
February 28, 2023

(As prepared for delivery)

Good morning, Chairman Durbin, Ranking Member Graham, and colleagues. I am honored to be here this morning to discuss the Equal Rights Amendment—the unconstitutional and deeply misguided effort to resurrect a proposed Constitutional amendment that expired over 40 years ago.

The Equal Rights Amendment proposes to add vague language to the U.S. Constitution to ensure equality between the sexes. However, the E.R.A. won’t do that. In fact, it would do the exact opposite and instead harm the very women it intends to protect.

Since 1972, the year that the Equal Rights Amendment was sent to the states for potential ratification, women’s rights have advanced by leaps and bounds. Today, every state has elected women to represent them in Washington, and Congress has a record number of women. This includes me, the first woman to represent Mississippi in Congress.

Women are already protected from discrimination under the law through the 14th Amendment to the Constitution, which ensures equal protection under the law. Women’s rights are also protected by the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Pregnancy Discrimination Act of 1978, and more. The Equal Rights Amendment would only muddy the waters. Because of its vague language, it would work to undo many of these great achievements, as it does not allow for any distinction between men and women – even when it would make sense to do so based on biological differences.

I am particularly concerned about the privacy and safety for women and girls that the Equal Rights Amendment would destroy. Locker rooms, prisons, hospital rooms, domestic violence shelters, and restrooms would all allow men into areas where women should feel safe and protected.

Advocates of the E.R.A. are also no longer shy about their goal to use the E.R.A. to impose unrestricted abortion on demand up to the moment of birth across the entire nation—and to force taxpayers to pay for it. Their apparent goal is to use the E.R.A. to overturn the *Dobbs* decision that returned the issue of abortion to the legislative

process, and instead re-empower unelected judges to impose a radical abortion policy that is in line with China and North Korea. Even the most modest pro-life protections—like waiting periods, parental involvement laws, and restrictions on late-term abortions or partial-birth abortions—could be struck down under the E.R.A.

Beyond the problematic content in the amendment, all Senators should be offended by the blatant disrespect for the legislative process with this effort to resurrect this long-expired amendment.

The legitimate constitutional role of Congress in the constitutional amendment process ended when Congress submitted the Equal Rights Amendment to the States on March 22, 1972. In *Idaho v. Freeman*, federal District Judge Marion Callister held that Article V does not permit Congress to extend a ratification deadline, writing that, “Once the proposal is made, Congress is not at liberty to change it.” As Ruth Bader Ginsburg, a long proponent of the Equal Rights Amendment, said in 2020: “I would like to see a new beginning. I’d like it to start over.”

Congress has no power to go back in time and resurrect an expired constitutional amendment, like the E.R.A. Under Article V, however, Congress may again propose the same or modified language addressing the same subject and try to approve a new joint resolution with the required two-thirds votes in each house of Congress.

The 1972 Equal Rights Amendment would harm the rights of women and weaken the United States Constitution. I call on my colleagues to reject this unconstitutional and misguided effort.

Thank you.